

RECORD OF DECISION

Castle Mountain Mine Expansion Project
San Bernardino County, California

ENVIRONMENTAL IMPACT STATEMENT No. DES 97-10

STATE CLEARINGHOUSE No. 95081031

Bureau of Land Management
Needles Field Office
Needles, California

Approved:

s/ Molly S. Brady
Field Office Manager

July 1, 1998
Date

DECISION

In accordance with Section 302(b) of the Federal Land Policy and Management Act of October 21, 1976, (43 United States Code [U.S.C.] 1201 and 1701 et seq), Title 43, Code of Federal Regulations (CFR), Subpart 3809, 43 U.S.C. 1201, and 30 U.S.C. 22, et seq, I approve that portion of Viceroy Gold Corporation's Proposed Castle Mountain Mine Plan Amendment Application described below, as modified by mitigation and monitoring provisions stipulated in Attachment 1. A copy of this Record of Decision and attendant Stipulations shall be in the possession of the on site operator during all undertakings approved herein.

Activities Approved: The North Overburden Site of the Proposed Castle Mountain Mine Plan Amendment Application is approved as configured and designed in accordance with Conditions of Approval to the Conditional Use Permit of San Bernardino County. The approved activities have been determined to have have No Effect on historic properties eligible for listing on the National Register of Historic Places. This approval includes my decision to allow placement of overburden, as approved, described herein, and illustrated on Attachment 2, to proceed immediately upon issuance of this decision.

My decision to approve the North Overburden Site of the Castle Mountain Mine Expansion Project has been made in consultation with San Bernardino County to ensure that the project meets applicable State of California and San Bernardino County laws and regulations, including California's Surface Mining and Reclamation Act of 1975 as amended (SMARA).

PROPOSED PLAN MODIFICATION

The proposed action, including mitigation and monitoring provisions, are described in detail in the following documents: Castle Mountain Mine Expansion Record of Decision (March 13, 1998); Castle Mountain Mine Expansion Project Draft EIS/EIR (March, 1997) which incorporates the Castle Mountain Project Draft EIS/EIR (February 1989) and the Castle Mountain Project Final EIS/EIR (August, 1990); Castle Mountain Mine Expansion Project Final EIS/EIR (October, 1997); the Castle Mountain Mine Plan Amendment Application, including the Reclamation Plan (August 14, 1997); Preliminary Report of National Register of Historic Places/California Register of Historical Resources Eligibility Evaluation of Archaeological Site CA SBR-3060/H, (August, 1997); U.S. Fish and Wildlife Biological Opinion (August, 1990) (1-6-90-F-24); U.S. Fish and Wildlife Biological Opinion (August, 1990) (1-6-90-F-24R); U.S. Fish and Wildlife Biological Opinion (February, 1998) (1-8-97-F-37); and Findings and Determination for Historic Properties - Castle Mountain Mine Expansion Project (June 2, 1998).

The portions of the Castle Mountain Mine Expansion Project as previously approved on March 13, 1998, expanded the mining and heap leach areas to include an additional 485 acres, for a total of 1,375 acres of permitted surface disturbance. As an extension of the existing mine, the expanded facilities will be developed in conjunction with the existing operation. All

utilities infrastructure (water, power, communications), ore processing, conveyance, gold recovery plant, administration, mine shop, and reclamation facilities will continue to operate at the same rates as the currently permitted operation. The same mining and processing methods currently used would continue. Site plan modifications and additional stipulations are discussed below.

Overburden Pile: The development of an approximate 180 acre overburden storage site at the North Overburden Site, and associated haul roads. The North Overburden Site has been redesigned to mimic local topography and minimize visual impacts. This aspect of the proposed action is approved in this Record of Decision.

Reclamation: Reclamation will be an active part of ongoing operations as described in the Reclamation Plan. A program of on-site revegetation research has been implemented, and baseline vegetation data has been collected and is being compiled. The Operator has one year from March 13, 1998, to submit a draft report of the baseline data, and two years from March 13, 1998, to submit a final report. The North Overburden Site shall be subject to all reclamation requirements and stipulations as stated in Attachment 1 to the Decision of March 13, 1998. Funding for reclamation activities has been, and will continue to be, guaranteed by bonding.

ALTERNATIVES

Two alternatives were analyzed in the EIS/EIR. These are:

South Overburden Site Expansion Alternative: This alternative was developed in accordance with the National Environmental Policy Act (NEPA) to reduce the potential effects to vegetation and wildlife habitat, historical resources at the Hart townsite, and visual resource effects from the North Overburden Site. This alternative would change the location of overburden placement, as compared to the Proposed Action. While this alternative would reduce certain impacts of the Proposed Action, other impacts, including air quality and visual resources, are found to be greater.

No Action Alternative: The No Action Alternative would involve continuation of existing mining and completion of the permitted operation, including mining and reclamation as approved in the Record of Decision of October 31, 1990.

MANAGEMENT CONSIDERATIONS

My decision to approve the proposed North Overburden Site of the Castle Mountain Mine Expansion Project is based on a determination that this project will not result in undue or unnecessary degradation. After close examination of the findings of the analysis and the results of public review, and after consultation with other agencies and local government including San Bernardino County Planning Department, I have concluded that the proposed action would satisfactorily resolve the major public land issues. In addition, mitigation

measures have been adopted to ensure that all reasonable means to avoid or reduce environmental impacts have been incorporated into the project. The project is consistent with the Bureau of Land Management (BLM) California Desert Conservation Area Plan and San Bernardino County's General Plan. A summary of management considerations which includes environmental and administrative factors considered is presented below:

In order to ensure compliance with the Plan of Operation under the Federal Land Management and Policy Act (FLPMA) and the Mine/Reclamation Plan under SMARA, the Applicant is required to post a security bond jointly with the County and BLM. The bond is adjusted annually to reflect the actual amount of surface disturbance, planned disturbances over the next year, and the amount of reclamation completed. The principal amount of the BLM/County surety bond currently in place is \$1,890,100.

Visual Impacts: The Proposed Action would expand the scope of visual contrast between existing and previously approved facilities and would result in topographic changes, removal of vegetation, and the potential for color contrasts associated with the overburden. These impacts would be noticeable from viewpoints in the Lanfair Valley, even when viewed from distances greater than three miles. In addition, visual impacts associated with the mine structures and operations would continue as a result of extending the mine life, as approved in 1990.

Visual resource impacts would be mitigated through configuration of the overburden placement to resemble existing topography, grading and shaping operations, and placement of dark-colored rock, to the extent available, on outer slopes of the overburden sites. The mine will be revegetated in accordance with the approved Reclamation Plan and with the involvement of the revegetation committee. While the visual impacts of the proposed action are significant even after mitigation, they do not warrant disapproval of the project nor selection of another alternative. The only other alternative that would reduce visual impacts is the No Project Alternative, and this alternative would also result in significant visual impacts. Visual impacts would be minimized to the extent feasible, and would not represent undue degradation due to mining.

Cultural Resources: The Area of Potential Effect for the Castle Mountain Mine was intensively surveyed for cultural resources at the BLM Class III level between 1986 and 1988 as part of the BLM's approval of the original plan of operations with the exception of a 150 acre parcel of land known as the Milma Patent. Consultation with the California State Historic Preservation Office and the Advisory Council on Historic Preservation on site eligibility and project effects was completed in 1989. No new information or considerations have been identified to require reconsideration or modification of prior evaluations, effects determinations, and mitigation measures.

The 150 acre Milma Patent was surveyed at the Class III level for the North Overburden site proposal. The initial survey was conducted in 1995. One multi-component site with both historic and prehistoric loci was identified (Site No. CA-SBR-3060/H). In 1997 this site was subjected to rigorous recordation and testing in order to complete the evaluation of this site for

the National Register of Historic Places. The site was determined Not Eligible and the North Overburden Site will have No Effect on historic properties eligible for listing on the National Register of Historic Places.

Unavoidable Impacts: Other impacts found to be unavoidable, in addition to visual impacts, were cumulative impacts resulting from loss of vegetation and impacts on air quality resulting from an increase in air contaminant emissions. While these impacts cannot be avoided, they do not warrant disapproval of the project or selection of another alternative. The South Overburden Site Expansion Alternative would not result in lesser impacts in these areas because the only difference in alternatives is location of the overburden placement. Emissions from the facilities are routinely monitored on the site to comply with Mojave Desert Air Quality Management District permits C002842 and C002843.

PUBLIC INVOLVEMENT

As part of the environmental analysis and identification of issues and concerns, a Notice of Intent to prepare an EIS on the proposed action was published in the Federal Register and two public scoping meetings were conducted. Over 330 copies of the Draft EIS/EIR were distributed. During the 60-day review period, two public hearings were held on the Draft EIS/EIR. The Final EIS/EIR was distributed to the public, agencies, and organizations who had expressed an interest in the project. The availability of the documents and announcements of meetings were published in local and regional media.

PUBLIC AND AGENCY COMMENTS

Numerous public and agency comments were received as a result of the distribution of the Draft EIS/EIR. These comments were considered and the responses thereto are included in the Final EIS/EIR, Section 7.0. Four letters of comment regarding the Final EIS were received and addressed in the Record Of Decision for partial approval of the Castle Mountain Expansion Project of March 13, 1998.

Modifications have been made to stipulations regarding revegetation efforts, implementation, and monitoring, as an integral part of project reclamation. The opportunity to demonstrate success during active mining is limited. However, opportunity to test, implement, evaluate, and adjust revegetation techniques, with expert input and oversight, are established with mitigation measures and stipulations discussed in the FEIS. The measurement of revegetation success is much more comprehensive than commentators inferred. The reclamation process is a long term event that yields minimal visual verification of immediate success.

MITIGATION

Archaeological sites CA-SBr-5705, 5706, and 5707 will be mitigated following *A Treatment Plan for Significant Cultural Resource Sites to be Affected by the Castle Mountain Project of Viceroy Gold Corporation* prepared by the Archaeological Research Unit, January 1988 (UCRARU #931), and CA-SBr-5708 will be recorded following the *California Archeological*

Resource Identification and Data Acquisition Program: Sparse Lithic Scatters. This treatment shall be initiated within sixty days of receipt of this Decision and will be concluded prior to establishing the overburden pile closer than three hundred feet of these resources.

The Operator shall construct chain link fence, with lockable gate, around the Hart townsite cemetery and post a descriptive sign within the fence within six months. Overburden placed in the North Overburden Site shall not be placed closer than three hundred feet from the cemetery and a berm shall be constructed, in association with growth media salvage, at the maximum extent of the footprint configuration of the North Overburden site as designed to prevent loose erratic overburden from encroaching upon areas not approved for surface disturbing activities.

The North Overburden Site shall be constructed in such a manner as to avoid disturbing the creosote bush rings located in this vicinity.

APPEALS

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4. If an appeal is taken, your notice of appeal must be filed in the Needles Field Office, 101 E. Spikes Road, Needles, California 92363 within thirty (30) days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 fr 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay **must** also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

ATTACHMENT 1

CASTLE MOUNTAIN PROJECT STIPULATIONS

To be combined with Attachment 1 of March 13, 1998, Decision

79. Archaeological sites CA-SBr-5705, 5706, and 5707 will be mitigated following A *Treatment Plan for Significant Cultural Resource Sites to be Affected by the Castle Mountain Project of Viceroy Gold Corporation* prepared by the Archaeological Research Unit, January 1988 (UCRARU #931), and CA-SBr-5708 will be recorded following the *California Archeological Resource Identification and Data Acquisition Program: Sparse Lithic Scatters*. This treatment shall be initiated within sixty days of receipt of this Decision and will be concluded prior to establishing the overburden pile closer than 300 feet of these resources.
80. The Operator shall construct the chain link fence, with lockable gate, around the Hart townsite cemetery and post a descriptive sign within the fence within six months. Overburden placed in the North Overburden site shall not be placed closer than three hundred feet from the cemetery and a berm shall be constructed, in association with growth media salvage, at the maximum extent of the foot print configuration of the North Overburden site as designed to prevent loose erratic overburden from encroaching upon areas not approved for surface disturbing activities.
95. The North Overburden Site shall be constructed in such a manner as to avoid disturbing the creosote bush rings located in this vicinity.
99. [Stipulation regarding the Hart Townsite mitigation is deleted as unnecessary]

ATTACHMENT 2

